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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,186	03/27/2000	George McBride	CARDIOBEAT-1	3794

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EXAMINER

KIM, PAUL L

ART UNIT PAPER NUMBER

2857

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/535,186

Applicant(s)

MCBRIDE ET AL.

Examiner

Paul L Kim

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-13 and 18-20 rejected under 35 U.S.C. 102(e) as being anticipated by Kumar et al.

With reference to claims 1, 4, 12, and 13, Kumar et al. teaches a medical testing method comprising the steps of: providing and coupling a test sensor to a subject (fig. 1, parts 10 & 20), coupling the test sensors to an apparatus having access to an Internet (fig. 1, part 30), operating the apparatus to automatically obtain test measurement data from the test sensors (col. 8, lines 42-48), uploading the test measurement data via the Internet to a location remote from the subject (fig. 1, parts 40 & 50 and col. 38, lines 25-

30), providing a server at a remote location (fig. 5b, part 52 & col. 14, lines 24-37), processing the measurement data at the central server (col. 13, lines 15-18), downloading the data from the server to the apparatus (col. 13, lines 14-22 & abstract, lines 21+), and displaying the information (col. 12, lines 16-20).

With reference to claims 5-7, Kumar et al. teaches receiving a request at the server from a second apparatus and transmitting the processed data to the second apparatus via Internet (fig. 5a & col. 14, lines 35-37).

With reference to claims 8-9, Kumar et al. teaches storing the processed data in a database (col. 29, lines 59-62).

With reference to claims 10 and 11, Kumar et al. teaches automatically storing processed data at different times for historical analysis purposes to provide a second processed data (col. 13, lines 46-51 & col. 4, lines 19-23).

With reference to claims 18-20, Kumar et al. teaches providing multimedia means at the apparatus, using the interface to communicate test instructions to the subject (fig. 3, part 24), and receiving the test instruction information via Internet (col. 32, lines 56-60).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al. in view of Poyser et al.

With reference to claims 14 and 16, Kumar et al teaches more than one apparatus collecting patient data (fig. 5a), but does not specifically mention a second device receiving the historic data from a server. Poyser et al teaches an on-line method of analyzing transformers that performs analysis of processed historic data by one of several client computers (col. 13, lines 4-23). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Kurmar et al, so that the second apparatus could obtain second data or processed historic data, as taught by Poyser et al, in order to have a separate facility to analyze data for faster processing.

With reference to claim 15, Kumar et al teaches receiving the second request by Internet (col. 38, lines 25-30).

With reference to claim 17, Kumar et al teaches patient data being encrypted (col. 31, lines 58-59).

Response to Arguments

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bardy, Skardon, Brown, and Linberg et al all teach a remote host/client patient monitoring system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 703-305-7468. The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-4440 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK
June 25, 2003


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800